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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,829	08/07/2001	Thilo Gabler	46894/FLC/W391	1850
23363	7590	06/13/2005	EXAMINER	
CHRISTIE, PARKER & HALE, LLP			BACKER, FIRMIN	
PO BOX 7068			ART UNIT	
PASADENA, CA 91109-7068			PAPER NUMBER	
			3621	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/923,829

**Applicant(s)**

GABLER, THILO

**Examiner**

Firmin Backer

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

***Response to Arguments***

1. Applicant's arguments with respect to claims 1, 3-7, 9-13, 15-25 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-7, 9-13, 15-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowman et al (U.S. Patent No. 2003/0037072 A1) in view of Granik et al (U.S. PG Pub No. 2002/0010757).

4. As per claims 1 and 7, Bowman et al teach a system and method for incentive advertising, comprising a processor; and a memory operably coupled to the processor and having program instructions stored therein, the processor being operable to execute the program instructions, the program instructions including: receiving by a processing device a viewer profile, the viewer profile including a viewer identification; selecting by a processing device advertising content based on the viewer profile; sending by a processing device the advertising content for display to a viewer, transmitting by a processing device to the viewer a viewer reaction query associated with the selected advertising content, recording by a processing device a viewer response to the viewer reaction query, storing in a data store a viewer identifier for the

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viewer in response to receipt of the viewer response, querying the data store for stored viewer identifiers satisfying a pre-determined criterion; and selecting a particular viewer identifier from the stored viewer identifiers, wherein the particular viewer associated with the particular viewer identifier is awarded an incentive (*see paragraphs 0015, 0019, 0020, 0042, 0043, 0053, 0060, 0077*). Bownman et al fail to teach an inventive concept of awarded an entry into a sweepstakes. However, Granik et al teach an inventive concept of awarded an entry into a sweepstakes (*see paragraphs 0018*). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention to modify the inventive concept of Bownman et al to include Granik et al's concept of awarding an entry into a sweepstakes because this would have provided user incentive to engage in certain activity.

5. As per claims 3 and 9, Bowman et al teach a system and method wherein the viewer response is a single value indicating the viewer's preference for the advertising content (*see paragraphs 0015, 0019, 0020, 0042, 0043, 0053, 0060, 0077*).

6. As per claims 4 and 10, Bowman et al teach a system and method wherein the viewer response is the viewer's answer to an advertiser's question (*see paragraphs 0015, 0019, 0020, 0042, 0043, 0053, 0060, 0077*).

7. As per claims 5 and 11, Bowman et al teach a system and method wherein the advertiser's question is customized by the advertiser to accompany the advertising content (*see paragraphs 0015, 0019, 0020, 0042, 0043, 0053, 0060, 0077*).

8. As per claims 6 and 12, Bowman et al teach a system and method further comprising: receiving a first viewer's comments about a brand; generating a chat broadcast message from the first viewer's comments; transmitting the chat broadcast message to a plurality of viewers (*see paragraphs 0015, 0019, 0020, 0042, 0043, 0053, 0060, 0077*).

9. Claims 13, 15-25 are rejected under the same rationale as claims 1-12.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (*see form 892*).

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

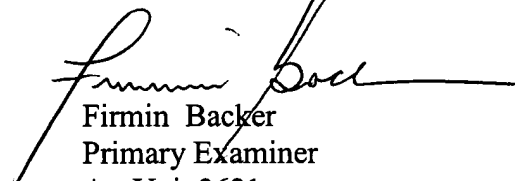
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (571) 272-6703. The examiner can normally be reached on Mon-Thu 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Firmin Backer  
Primary Examiner  
Art Unit 3621

June 9, 2005